In the High Court for the States of Punjab and Haryana, at Chandigarh.

C.R. No. 421 of 2007 (O&M)
Decided on January 25,2007.

Subash Bhatia -- Petitioner/plaintiff

vs.

Nanak Singh and another -- Respondents-defendants.

Present: Mr. Sanjeev Sharma, Advocate, for the petitioner.

Pritam Pal,J: (Oral)

This revision petition by Subhash Bhatia,petitioner/plaintiff (hereinafter referred to as 'the plaintiff), is directed against order dated July 18,2006, passed by the Civil Judge (Junior Division),Patiala, whereby his application for ad-interim injunction moved under Order 39 Rule 1 and 2 read with Section 151 of C.P.C.,filed in a suit for permanent injunction, was dismissed, whereas an application filed by Nanak Singh respondent/defendant (hereinafter referred to as 'the defendant), for directing the plaintiff to reconstruct the disputed wall in the shape as it existed before its removal, was allowed. Thereafter, the appeal filed against the impugned order, was also dismissed vide order dated December 22,2006, passed by Mr. B.S.Sidhu, the learned Addl. District Judge (Adhoc), Fast Track Court, Patiala.

Both the Courts below in the impugned orders are in *unison,*while observing as under:-

> From the conduct of the plaintiff before the Court and from his own admission of the destruction of wall it is

evident that the plaintiff is interested in using the space to the maximum extent of the said wall for his own purpose to build and use stair case on his side. Where as there is no such evidence at this stage on the file if he owns and possesses the western wall exclusively as alleged. Thus, balance of convenience is also in favour of defendant No.1 and not in favour of plaintiff".

The evidence in the main civil suit pending between the parties is yet to be recorded. Both the Courts below after seeing the documents and the site plan did not find any prima facie case for issuance of an ad-interim injunction in favour of the plaintiff. Before this Court also, learned counsel for the plaintiff is unable to make out any case for interference in the observations made by the Courts below. At this stage, I do not find any impropriety or illegality in the impugned orders passed by the Courts below.

Hence, this Civil Revision is dismissed in l*imine* without calling the opposite party. However, it is made clear that nothing contained herein, shall be taken to be an expression of opinion on the merits of the Civil Suit, which is yet to be decided by the learned trial Court, in the light of evidence to be led by both the parties.

January 25,2007 (Pritam Pal)
RR Judge